

## **BOARD OF VETERINARY MEDICAL EXAMINERS**

### **Minutes**

Date: August 26, 2004

Time: 9:00 a.m., C.S.T.

Location: Big Tennessee Room  
Ground Floor, Cordell Hull Building  
425 Fifth Avenue North  
Nashville, TN 37247-1010

Members Present: Jerry Wilhite, D.V.M, President  
Leland Davis, D.V.M.  
Richard Buchanan, D.V.M.  
Samantha Petty, Consumer Member  
Maryann Grell, L.V.M.T.  
Thomas Edmonds, D.V.M.  
Mary Welch, D.V.M.  
Ron Wilson, D.V.M., Ex-officio Member

Staff Present: Lisa Lampley, Board Director  
Rita Buckner-Shelton, Board Administrator  
Nicole Armstrong, Advisory Attorney  
Jerry Kosten, Regulations Manager  
Robert Taylor, D.V.M., Board Consultant/Inspector

A roll call vote was taken and upon determination of a quorum being present, the Board meeting was called to order by Dr. Wilhite at 9:07 a.m.

### **Welcome to Ron Wilson, DVM, State Veterinarian**

Dr. Wilhite welcomed Dr. Ron Wilson, State Veterinarian, as an ex-officio, non-voting member of the Board. Dr. Wilson stated that he looked forward to developing and collaborating with the Board on issues such as Homeland Security and accreditation in safeguarding animal health and public protection.

### **Approval of Minutes**

After reviewing the minutes from the March 25, 2004 meeting and the May 10, 2004 telephonic meeting, Dr. Davis motioned to approve the minutes as presented. Ms. Petty seconded the motion. The motion carried.

### **Conflict of Interest Policy**

Ms. Nicole Armstrong, Advisory Attorney, reviewed the conflict of interest policy with the Board members.

## **Licensure Applicant Interview**

### **Jennifer Nunnery, DVM**

Dr. Nunnery appeared before the Board for an oral interview/examination pursuant to her request for reinstatement of a retired license. Dr. Nunnery had been participating in a public health fellowship for the two years prior to her reinstatement application. Dr. Nunnery presented proof of continuing education hours and satisfactorily answered questions from the Board. Dr. Buchanan made a motion to grant her request for reinstatement of licensure. Dr. Welch seconded the motion. The motion carried.

## **Petition for Declaratory Order Hearing**

Pursuant to the granting of the request for the consideration of a petition for a Declaratory Order at the March 25, 2004 meeting, Mr. David Bryant d/b/a Smoky Mountain Cattle Consulting appeared before the Board. Mr. Bryant was represented by his attorney, Ms. Marcia McMurray. Ms. Nicole Armstrong, Assistant General Counsel, represented the State. The proceedings were presided over by Administrative Law Judge Bob Fullman.

Mr. Bryant's petition for declaratory order proposed that the consulting services he plans to offer through his business should be considered an accepted livestock management practice and, therefore, be an exemption from licensure under T.C.A. 63-12-133(a)(10). Ms. McMurray also argued that the administration of vaccinations and the use of ultrasound by Mr. Bryant's business was within the intent of the licensure exemptions under T.C.A. 63-12-133(a)(4) and (10).

Ms. Armstrong presented the Department of Health's position in this matter and stated that the Department opposed granting an exemption from licensure to the Petitioner based on the absence of rules defining or regulating livestock management practices and the clear inclusion of the administration of vaccinations and the use of ultrasound in the definition of the practice of veterinary medicine.

After discussion and questions from the Board, Dr. Buchanan made a motion to deny the request and find that the administration of vaccinations and the use of ultrasound constituted the practice of veterinary medicine. Dr. Edmonds seconded the motion. A roll call vote was taken and the motion carried.

## **Agreed Order – Donald D. Bryan, D.V.M.**

Dr. Donald Bryan, DVM, did not appear before the Board and was not represented by counsel. Ms. Brandi Bozarth, Assistant General Counsel, represented the State. Ms. Bozarth presented an Agreed Order to the Board for ratification. Dr. Bryan authorized prescriptions without examining the animal or speaking to the animal's owner and did not keep records of the authorized prescriptions. Dr. Bryan's license to practice was voluntarily surrendered and he agreed that he would not reapply for licensure as a veterinarian in Tennessee. Dr. Davis made a motion, seconded by Dr. Welch, to accept the Agreed Order. A roll call vote was taken and the motion carried.

#### **Agreed Order – Charles L. Patrick, Jr., D.V.M.**

Dr. Charles Patrick, DVM, did not appear before the Board and was not represented by counsel. Ms. Brandi Bozarth, Assistant General Counsel, represented the State. Ms. Bozarth presented an Agreed Order to the Board for ratification. Dr. Patrick practiced veterinary medicine on a lapsed license since August 1, 1999 and was convicted of falsification of documents regarding blood testing of cattle in the United States District Court, Eastern District of Tennessee at Winchester. Dr. Patrick's license to practice was revoked and he agreed that he would not reapply for licensure as a veterinarian in Tennessee. Dr. Buchanan made a motion, seconded by Ms. Petty, to accept the Agreed Order. A roll call vote was taken and the motion carried.

#### **Agreed Order – Lee Ann Givan, D.V.M.**

Dr. Lee Ann Givan, DVM, was present and was not represented by counsel. Ms. Nicole Armstrong, Assistant General Counsel, represented the State. Pursuant to a settlement agreement reached previously by the Board's screening panel, Ms. Armstrong presented an Agreed Order to the Board for ratification. Dr. Welch recused herself. Dr. Givan misappropriated the name and DEA number of her employer, also a licensed veterinarian, to unlawfully obtain prescriptions for Percocet for her own personal use. Dr. Givan's license was placed on probation for a four year period. Dr. Givan is to continue her participation in and compliance with her treatment program; provide written notification to the Board's administrative office if there is violation of her aftercare contract; submit a quarterly written report from the Tennessee Medical Foundation Physicians Health Program/Caduceus Group regarding her participation and compliance; submit a quarterly written report from her current employer; shall practice veterinary medicine under the direct supervision of a licensed veterinarian with current DEA certification for a one year period from the date of reemployment in the veterinary field; submit documentation of completion of continuing education requirements by December 31<sup>st</sup> of each year of probation; provide written notification within thirty days of any change in employment; and personally appear before the Board at its December, 2008 meeting to show successful compliance with all conditions and restrictions as contained in the Agreed Order. Dr. Davis made a motion, seconded by Dr. Buchanan, to accept the Agreed Order. A roll call vote was taken and the motion carried. The Board thanked Dr. Givan for being present.

#### **Agreed Order – P. Charles Moyers, D.V.M.**

Dr. Charles Moyers, DVM, did not appear before the Board and was not represented by counsel. Ms. Nicole Armstrong, Assistant General Counsel, represented the State. Pursuant to a settlement agreement reached previously by the Board's screening panel, Ms. Armstrong presented an Agreed Order to the Board for ratification. Dr. Welch recused herself. Dr. Moyers operated Moyers Veterinary Clinic – East without a premise permit from on or about June 1, 2002 until January 27, 2004. Dr. Moyers was issued an Advisory Censure and assessed total civil penalties in the amount of \$900.00. Dr. Buchanan made a motion, seconded by Dr. Davis, to accept the Agreed Order. A roll call vote was taken and the motion carried.

### **Agreed Order – William C. Potter, D.V.M.**

Dr. William Potter, DVM, did not appear before the Board and was not represented by counsel. Ms. Nicole Armstrong, Assistant General Counsel, represented the State. Pursuant to a settlement agreement reached previously by the Board's screening panel, Ms. Armstrong presented an Agreed Order to the Board for ratification. Dr. Welch recused herself. Dr. Potter's license to practice veterinary medicine in Tennessee expired on October 31, 2002. In July, 1999, Dr. Potter was found guilty of felony offenses of Distribution of Schedule III Controlled Substances Outside the Usual Course of Professional Practice. On July 26, 2001, the Kentucky Board of Veterinary Examiners revoked Dr. Potter's license and assessed fines and prohibited him from reapplying for reinstatement of his license until June 1, 2002. The Kentucky Board conditioned the future reinstatement of his license on the imposition of a three year period of probation with restrictions. Upon submission of a reinstatement application to the Tennessee Board of Veterinary Medical Examiners, Dr. Potter's license will be placed on probation until June 1, 2005, to run concurrent with the probation imposed by the Kentucky Board of Veterinary Examiners; shall submit a report from the Kentucky Board of Veterinary Examiners in January, 2005, verifying compliance with all terms of discipline; and shall personally appear before the Board following the expiration of the period of probation to show compliance with the terms and conditions of the probation. Dr. Davis made a motion, seconded by Ms. Petty, to accept the Agreed Order. A roll call vote was taken and the motion carried.

### **Program for the Assessment of Veterinary Education Equivalence (PAVE)**

Upon review and discussion of the PAVE program, Dr. Welch made a motion, seconded by Dr. Buchanan, to accept PAVE certification for foreign graduates. A roll call vote was taken and the motion carried.

### **Disciplinary Guidelines**

After review and discussion of disciplinary guidelines developed by Ms. Robbie Bell, Director, Health Related Boards, Dr. Buchanan made a motion, seconded by Dr. Davis, to adopt the proposed guidelines. The motion carried.

### **American Association of Veterinary State Boards (AAVSB) Conference**

Ms. Grell and Ms. Lampley will be attending the annual AAVSB Conference in Kansas City, MO to be held on September 16 – 19, 2004. Information to be presented at the conference was reviewed.

### **Continuing Education Review Committee**

Upon discussion, Drs. Wilhite and Davis were designated to review courses submitted for approval of continuing education hours.

## **Rules Status Report**

Mr. Jerry Kosten, Regulations Manager, reported that a rulemaking hearing was held on June 9, 2004 regarding prerequisites to prescribing. No comments were received at the rulemaking hearing. After review, a motion was made by Dr. Buchanan, seconded by Dr. Welch, to ratify the proposed rule change. The motion carried.

Mr. Kosten reviewed proposed rule changes/additions regarding qualifications for licensure; retirement and reactivation of license; temporary licensure of foreign graduates per Public Chapter No. 522; facility inspection requirements; and amendments for the purpose of minor corrections and updates to the rule language. After review and discussion, Dr. Davis made a motion to authorize a rulemaking hearing. Dr. Buchanan seconded the motion. The motion carried. A hearing is scheduled to take place on November 23, 2004. Notices of rulemaking hearings are posted on the Internet and may be accessed via the Department of Health's home page.

Mr. Kosten reviewed the rule changes becoming effective September 7, 2004 regarding the revision of recently adopted practice standards, exam application deadlines, CAET retirement, and Right-to-Know requirements.

## **Investigations and Disciplinary Report**

Ms. Lea Phelps, Disciplinary Coordinator, reviewed the reports with the Board. There are currently fifty (50) open complaints in the Office of Investigations. An analysis of newly filed complaints categorized by allegation and month received and by geographical area and month received was included. The disciplinary report indicated that nine (9) licensees are currently being monitored for compliance with Board orders. A report of all disciplinary action taken by the Board was also included.

## **Office of General Counsel (OGC) Report**

Ms. Nicole Armstrong, Advisory Attorney, informed the Board there are currently two sets of rules under review at the Office of the Attorney General. New rules became effective August 9, 2004 regarding prescriptions, licensure requirements, client records and x-rays. New rules regarding the revision of recently adopted practice standards, exam application deadlines, CAET retirement, and Right-to-Know requirements will become effective September 7, 2004. The Office of General Counsel currently has twenty-four (24) open files pertaining to the Tennessee Board of Veterinary Medical Examiners. Of that number, twenty-three (23) files pertain to veterinarians and one (1) pertains to a veterinary medical technician. An Office of General Counsel board summary report of open and closed cases for all health related boards was included for informational purposes.

## **Inspection Report**

Dr. Robert Taylor, DVM, presented and reviewed the inspection report. A total of one hundred fourteen (114) inspections were conducted during the period of March, 2004 – July, 2004.

## **Director's Report**

Ms. Lampley welcomed Dr. Ron Wilson, State Veterinarian, as an ex-officio member of the board. Dr. Richard Buchanan and Ms. Samantha Petty, whose terms expired August 1, 2004, were thanked for their service and dedication to the board. It was noted that the next board member orientation session is scheduled for Thursday, September 9, 2004. The Veterinary Technician National Exam (VTNE) was administered to thirty-three candidates on June 18, 2004 with twenty-nine of the candidates receiving a passing score. The Board was informed that the Division of Health Related Boards will be moving to a new location in the near future.

## **Financial Report**

A copy of the last financial report was available for review. Ms. Lisa Tittle, Fiscal Director, was unable to attend the meeting. An updated financial report will be mailed as soon as it is available.

## **Legislation Report**

Ms. Lampley reviewed the following recently enacted legislation:

Public Chapter No. 425 – Extends controlled substance database advisory committee until June 30, 2008.

Public Chapter No. 522 – Allows for temporary licensure of foreign graduates who meet certain requirements.

Public Chapter 567 – Appoints state veterinarian as a non-voting, ex-officio member of the Board of Veterinary Medical Examiners.

Public Chapter No. 575 – Relative to access to medical records

A motion was made by Dr. Buchanan, seconded by Dr. Welch, to designate the board consultant(s) as the independent reviewer of medical records.

Public Chapter No. 765 – “Tennessee Anti-Rabies Law”

## **Continuing Education Course Approval**

The following requests for approval of continuing education hours were received:

A request from **The Butler Company** for approval of two (2) continuing education hours for a seminar on accounting principles, new tax laws, and inventory management/buying power to be held September 19-20, 2004.

A request from **Elanco Animal Health** for approval of fourteen (14) continuing hours for a meeting entitled “The Reflecting Pool” to be held on August 20-22, 2004.

A request from **Fort Dodge Animal Health** for approval of two (2) continuing education hours for a discussion/meeting held on June 22, 2004 on the topic of changing vaccine protocols.

A request from **Merial, Ltd.** requesting approval for two (2) hours of continuing education credit for a series of meetings on the topic of veterinary dentistry. The meetings will be held on July 20<sup>th</sup> and 29<sup>th</sup>, and August 3, 2004.

A request from **Merial, Ltd.** requesting approval for one (1) hour of continuing education credit for a dental seminar held in Johnson City, Tennessee on June 29, 2004 and one and one-half (1 ½) hours of continuing education credit for a presentation entitled “How to Convince Clients that Regular Dental Care is Essential” held in Knoxville on June 30, 2004.

A request from **Merial, Ltd.** requesting approval for two (2) hours of continuing education credit for a lecture on NSAIDS presented by the Rutherford Co. Veterinary Society on May 18, 2004.

A request from **Pfizer Animal Health** requesting approval of one (1) hour of continuing education credit for a presentation held on February 28, 2004 entitled “Duration of Serologic Response to Viral Antigens in Pfizer Vaccines.”

A request from **Pfizer Animal Health** requesting approval of one (1) hour of continuing education credit for various live teleconferences to be held throughout the 2004 calendar year. Also requested is approval for the use of a taped version of the “live” teleconference in presentations at veterinary clinics. (info attached)

A request from **Pfizer Animal Health** requesting approval of one (1) hour of continuing education credit for a lecture on “Canine Infectious Tracheobronchitis: Disease Complex, Treatment & Prevention” presented by the Rutherford Co. Veterinary Society on August 10, 2004.

A motion to approve all courses was made by Dr. Buchanan and seconded by Dr. Wilhite. The motion carried.

### **Request for Extension of Continuing Education Hours**

A request was received from **John Marshall Byrd, DVM**, for an extension of time for obtaining deficit continuing education hours. The Board granted approval for the extension of time. Dr. Byrd is required to obtain and submit proof of completion of a total of fifty-four (54) continuing education hours for calendar years 2000 – 2003. The Board granted the extension until December 31, 2006. These deficit hours are in addition to the twenty hours of continuing education hours required to be obtained each year per Board rule.

### **File Review**

The Board reviewed an application for licensure as a veterinary medical technician submitted by **Amanda Marit Mitlyng**. Ms. Mitlyng answered “yes” to conviction of a felony or misdemeanor other than a minor traffic offense. After review and discussion, a motion to approve the application was made and seconded. The motion carried.

## **File Review/Ratification**

Upon review, the Board moved to ratify all newly licensed/certified or reinstated veterinarians, veterinary medical technicians, veterinary facilities, certified animal euthanasia technicians, and certified animal control agencies.

## **Correspondence**

The Board reviewed all correspondence and requested that appropriate notification be given of any action taken or any comments made.

## **Election of Officers**

A motion was made and seconded to nominate the following:

President – Leland Davis, DVM

Vice-President – Mary Welch, DVM

Secretary – Mary Ann Grell, LVMT

The motion carried.

## **2005 Meeting Dates**

The following proposed meeting dates were approved for 2005:

April 20 – 21, 2005

August 24 – 25, 2005

December 8 – 9, 2005

## **Adjournment**

There being no further business to discuss, Dr. Buchanan made a motion, seconded by Dr. Welch, to adjourn. The motion carried and the meeting was adjourned at 2:20 p.m.

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Mary Welch, D.V.M., Secretary

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Date

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